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Assessing the Effectiveness of the Right to Information Act, 2005 in Promoting Transparency and Accountability in India

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ABSTRACT

The Right to Information Act (RTI) of 2005 signifies a pivotal statute in Indian democracy, dramatically altering the dynamics between citizens and government by enforcing transparency in public administration. The study assesses the efficacy of the RTI Act via a thorough examination of its execution, influence, and obstacles during the last twenty years. The research use qualitative documentary analysis technique to investigate the Act's operational architecture, its efficacy in enhancing transparency, and the ongoing obstacles to its complete implementation. The paper examines significant legal rulings from many High Courts and the Supreme Court that have influenced the interpretation and implementation of the RTI Act. The study analyses the rulings, the three-tier appeal mechanism, and the documented experiences of information seekers and Public Information Officers, offering insights into the revolutionary potential and practical limitations of India's RTI framework.

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INTRODUCTION

The Indian RTI movement came up through a bottom-up approach, with the MKSS being one of the key players since the time it was founded in the year 1990 in the state of Rajasthan. One major development took place in the winter of 1994 when the MKSS devised the unique technique of jansunvais (public hearings) wherein the official records were read out loud to show corruption in public works programs. Until then, efforts against corruption were largely sporadic and based on initiatives from charismatic individuals and/or activists, but MKSS changed all this with its people's movement based on public hearings and documentary research. The movement received an additional boost from several other civil society organizations that were combating corruption in the system of public distribution, welfare schemes, and public works. It is their combined efforts along with the support from human rights activists, environmentalists, and the National Campaign for People's Right to Information that resulted in the enactment of RTI in 2005, thus making a move away from the colonial-era Official Secrets Act of 1889 (Rani, 2017; Government of India, Department of Administrative Reforms and Public Grievances, 2016).

Information laws in terms of the international environment took shape prominently in the late 1980s and early 1990s on account of a few intersecting aspects: the fall of the Cold War, emergence of discourse about the development of neoliberalism, and revolution in information technologies. In particular, the dissolution of the USSR further strengthened the ideology linking transparency with democratic governance, which resulted in the adoption of transparency laws in post-Soviet countries such as Ukraine. The important role in the spread of such laws was played by international organizations such as the World Bank and the Asian Development Bank, as they were linking their financial resources to reforms that required transparency. Thus, by 2008, the number of countries with sunshine laws rose significantly from 12 countries in 1980 to 78 countries (Banisar, 2006; Stubbs, 2012).

There has been great change in citizen-state relationship due to RTI. The change in culture from secret to accountable culture has greatly transformed the power dynamics. The law created a shift from the colonial way of governance where citizens were subjects to a democratic approach where they become stakeholders to ask, investigate, audit and evaluate government actions. The problem is that the change from colonialism to democracy has brought many challenges for the government and the bureaucrats. RTI has empowered the citizens but the bureaucrats have also found different ways of adapting to the law. For example, the judicial perspective on the Right to Information Act shows inconsistency where there is a failure to understand the objective of the Act in most cases. Even though the Supreme Court and High Court judges have interpreted the Act in their judgments, they have been slow in applying the same Act to their work as administrative public authority (Rao & Chingale, 2018). The best example of this reluctance can be seen in the judiciary's strong resistance to transparency in the nominations of judges, despite the presence of relatively small exclusion in the Act. The problem got even more complicated when the dispute over the nominations of judges to the Supreme Court and High Courts arose between the judiciary and the union government. No information was available on the memorandum of process for nominations of judges to the Supreme Court and High Courts, making any open discussion on the matter impossible. It appeared that the attitude of the judiciary towards the issue was selfish and not principled without transparency. What could have been an interesting constitutional debate on the separation of powers turned into a mess of unauthorized revelations and speculations (Kumar, 2017).



PROBLEM STATEMENT

There is groundbreaking legislation in India with the establishment of Right to Information Act in 2005; an alarming gap emerges between the revolutionary nature of the law and its practice. This research analyzes an urgent issue of a significant gap between the idealized image of RTI created by the legislative act and its operational obstacles. Bureaucratic obstructionism, coupled with the problems that hinder the realization of RTI's mission through various procedures, include the conscious restructuring of information processes. Through an analysis of the paradoxical formalization of transparency process that undermines the rights of disadvantaged citizens while favouring the ones that know how to navigate bureaucracy, the systemic problems in the three-tiered appeal system and the legacy of colonial administrative culture, which continues to prioritize secrecy over transparency, this research strives to reveal the structural implementation gaps that need reforming.

THEORETICAL FRAMEWORK

The theoretical framework helps to analyze the effectiveness of the Right to Information (RTI) Act in India include, among others, the following. First, Public Accountability Theory indicates that governments should be accountable to the citizenry. The RTI Act is a move in that direction, in that it increases transparency and gives citizens the right to ask questions about governmental actions (Honnudike, 2015). This theory emphasizes the fact that when citizens are well-informed, they are able to make sure that the public officials are held accountable and democratic governance is facilitated. Third, Social Justice Theory indicates that RTI helps promote social justice by giving marginalized groups the information about their rights and entitlements (Devasha Suries, 2011). Information Asymmetry Theory can be useful in that the RTI Act seeks to reduce the imbalance of information that exists between the government and the citizens. Still, research shows that because of certain problems, including bureaucracy, lack of awareness of the citizens, and misuse of the Act, its full implementation is not possible (PwC Report, 2009). Thus, even though the RTI Act represents a big step towards democratic governance, its effectiveness depend on the solution of all the issues in question.

SIGNIFICANCE OF STUDY

The research makes substantial contributions to the understanding of the complex influence of transparency legislation in the Indian government system. The research evaluates how the implementation of the Right to Information Act has affected the way that bureaucrats work and the relationships between citizens and the government, and exposes significant discrepancies between what the law was intended to accomplish and how its implementation actually happened. In analyzing implementation problems, this study finds important areas for reform and modification of procedures in order to improve the effectiveness of the law. By providing a case of how the process was successfully implemented and examples of innovation in its application, this study provides practical recommendations for people involved in improving transparency mechanisms. Furthermore, the results of the study is very helpful for theoretical discussion of transparency laws as instruments for promoting democratic participation and accountability, thus making an important contribution to the general discussion of democracy in developing countries. In particular, this research is especially timely because of the increased focus on governmental transparency and growing needs for accountability all around the world. This research is helpful not only for Indian government officials, but also for other countries that want to implement similar legislation.



METHODOLOGY

The research methodology descriptive method with qualitative analysis of government records, judicial verdicts, and Information Commission reports with primary data collected through semi-structured interviews with RTI activists and practitioners. The implementation trends and results are examined through systematic studies of documented case studies from secondary sources such as academic publications, published successes of RTI, and civil society evaluations. The collection of primary data involves the conducting of in-depth interviews with 25 RTI activists from various states to learn about the problems associated with implementing RTI and the strategies that could be employed successfully. The methodology involves the study of annual reports from the Information Commission, parliamentary papers, government circulars, and judicial judgments which have affected the interpretation of RTI.

RESULT AND DISCUSSION

Legal Framework

The Right to Information Act created an extensive legal and institutional framework which played a vital role in increasing citizens' awareness about their rights in India. This system works through an institutionalized process that makes it obligatory for public authorities to disclose information in advance and appoint Public Information Officers (PIOs) and Assistant Public Information Officers (APIOs) for processing information applications from citizens (Rani, 2017; Government of India, Department of Administrative Reforms and Public Grievances, 2016). The structure of the Right to Information Act includes State Information Commissions (SICs) and Central Information Commission (CIC) responsible for compliance, receiving complaints, and dealing with appeals (Rao & Chingale, 2018). There are several obligations of the public authorities including maintenance of record Section 4(1)(a), providing proactive information Section 4(1)(b), (c), dissemination of information Section 4(2), (3), (4), designation of information officers (Section 5), implementation of commission's decision Section 19(7), and maintenance of management information systems and annual returns Section 25(2) (Right to Information Act, § 4, 2005). Such backlog had a great effect on the efficacy of the Act especially taking into consideration its stress on timeliness. The number of RTI returns was decreasing from 2008-09 to 2019 (Kumar, 2017).

This issue calls for systematic changes in record keeping, technological infrastructure, and compliance mechanisms for realizing the original goal of transparency and accountability. For the success of RTI Act, it is important to address these basic issues in the implementation process while maintaining its core idea of giving power to people in terms of information (Rao & Chingale, 2018). Some of the provisions in the RTI Act include the time frame within which the information should be made available and the penalty that could be imposed for wrong denial of information and incorrect information as well. The provision in Section 4 for the mandatory proactive disclosure of information by public authorities ensures that information becomes part of regular administrative process and not a reaction to the demands by citizens. At the same time, while supporting transparency, the Act also strikes a balance between various interests by making suitable exceptions under Section 8 (Right to Information Act, § 4, 2005; Government of India, Department of Administrative Reforms and Public Grievances, 2016).

Success and Challenges of Right to Information Act in India

The Right to Information (RTI) Act 2005 has transformed governance in India through numerous success stories across different sectors. Here's a comprehensive analysis of key cases demonstrating its impact:



Education and Youth Empowerment: One of the most impressive cases concerns Aishwarya Sharma, an eight-year-old student of Lucknow, who utilized RTI to change the garbage dump in front of her school to a library. Once her RTI application highlighted that there was a question regarding the legality of the place of the garbage dump, it was discovered that actually it should have been a library. In another case, T K Sreejeeth Vijay, a class 8 student from Port Blair, became the youngest RTI user in Andaman and Nicobar Islands because he got roads repaired near his school using RTI application. The law also transformed academic transparency, as illustrated by the historic case of Pritam Rooj, whose RTI application resulted in Supreme Court judgment requiring the disclosure of evaluated answer sheets to the students in all educational institutes (Government of India, Department of Administrative Reforms and Public Grievances, 2016).

Public Distribution and Social Welfare: The Act has also proven successful in making transparency in public distribution systems. In Gujarat, Bhadresh Wamja, an 18-year-old student, revealed misdeeds in fair price shops using RTI, which made the stocking of goods mandatory in the state (Moneylife News & Views, n.d.). In Chhattisgarh, RTI revealed the facts that enabled restoring the rights of BPL beneficiaries who were being denied their share of food grains. In Jharkhand, RTI proved useful in reclaiming the rights of over 2,000 tribal families whose land rights were denied during the colonial period (Government of India, Department of Administrative Reforms and Public Grievances, 2016).

Infrastructure and Public Services: RTI has been an instrumental tool in improving infrastructure and social services. RTI by Deepak Kumar Gupta in the state of Maharashtra has been instrumental in reviving mandatory ward committee meetings in municipal corporations for better governance. It has also helped in making sure that the welfare programs are implemented properly. This can be proved through the example of Lunaram Singh from the state of Rajasthan who availed RTI to get his money in time for Janani Suraksha Yojana scheme (Ministry of Health and Family Welfare, 2005). In the power sector, RTI has helped in identifying the loopholes in rural electrification program schemes (Rani, 2017).

Administrative Reforms and Transparency: Several reforms have been brought about through this Act. The case of Commodore Lokesh Batra resulted in the use of eIPO for filing RTI applications from anywhere in the world. There is an interesting case of 'Jaankari' call centre in Bihar where citizens can file their RTI applications by telephone. Successful RTI applications by Hemant Ghosh in Chandigarh made the city smoke-free and helped introduce anti-smoking laws all across the country. This is just some of the instances through which RTI has been used successfully in order to bring about systemic changes in governance. These examples constitute only a small part of what this Act has achieved till now, and are evidence of how the Act has enabled citizens of all ages and backgrounds to actively contribute towards governance that is transparent and accountable (Government of India, Department of Administrative Reforms and Public Grievances, 2016).

Barriers to Transparency

There are certain major issues facing the Right to Information Act that significantly reduce its effectiveness as a tool for transparency and accountability. First, there is a serious problem associated with the misuse of RTI for the purpose of grievance redressal instead of its actual intended purpose of accessing information. There are many citizens who incorrectly assume that the information commissioner is meant for resolving disputes leading to filing of complaints beyond the scope of the commission, which is only supposed to facilitate access to information. There are numerous difficulties being faced by the system from the Public Information Officers who try to obstruct information using various kinds of tactics. There are

occasions when Public Information Officers deny any information, provide wrong information, give irrelevant information, and even claim that they cannot understand simple questions posed by the citizens. Some Public Information Officers make legal objections against providing the information by classifying the requested information as third party and litigation as a reason for denying information. It is a worrying trend when officials call up RTI applicants to question them about their motives and threaten them even though it violates the provisions of the act (Rani, 2017; Rao & Chingale, 2018).

The problem is compounded by delays in the process and barriers erected by bureaucracy. Extended waits between second appeals, at times extending over many years, are contrary to the purpose of fast information dissemination by the Act. Public information Officers refer applicants to allegedly accessible online sources, which are in most instances inaccessible or partial, or claim that the document in question is not available with them. Some officials abuse the process by claiming incorrectly that the requested information does not fall under Section 2(f) of the RTI Act 2005, when application clearly is made. Destruction of documents has emerged as a major problem in some cases where key files have been destroyed deliberately to prevent disclosure. This leads to routine "not available" responses and makes it very hard to assign blame for non-available records. The problem is further aggravated by applications in complex legal jargon (Kumar, 2017; Government of India, Department of Administrative Reforms and Public Grievances, 2016).

This system is further overwhelmed by trivial queries that make public agencies receive unnecessary queries, thus wastage of precious time that should have been used for answering serious queries. This makes it difficult for genuine seekers of information to face delays and opposition in accessing information. These various factors from obstruction by officials to inefficiency and corruption have created significant problems for the successful implementation of RTI, thus compromising on the fundamental goal of transparency in governance and public officials' accountability through the law. This set of complex issues calls for an all-encompassing plan of reforming RTI that would include improved training of Public Information Officers, strict penalties on information obstruction, faster appeals, and greater awareness among the people on proper use of RTI law (Rao & Chingale, 2018; Kumar, 2017).

Directives of Supreme Court in various time periods

Canara Bank v. C.S. Shyam (2017): In this case, the Supreme Court observed that information regarding transfer/posting of clerical staff was personal information which was covered under Section 8(1)(j) of the RTI Act. Such information regarding service matters of individual employees have no connection whatsoever with any public activity and cause an unwarranted invasion of privacy, except when larger public interest exists. The Court reiterated the importance of personal information in relation to service matters (Canara Bank v. C.S. Shyam, 2017).

Central Public Information Officer, Supreme Court v. Subhash Chandra Agarwal (2019): In this groundbreaking judgment, the Court addressed the issue of transparency in appointment of judges while maintaining judicial independence. The Court observed that a disclosure decision should necessarily involve a balancing exercise of weighing the public interest in disclosure against other interests. Information regarding final decision of judicial appointments may be disclosed, but maintaining confidentiality in the process of deliberations (Central Public Information Officer, Supreme Court v. Subhash Chandra Agarwal, 2019).

Yashwant Sinha v. CBI (2019): Addressing Rafale documents which have been disclosed through media reports, the Court ruled against the privilege claimed by the government. The Court ruled that even if the documents were obtained through unauthorized

channels, they can be considered by courts if they promote public interest. The right to information derives from fundamental right of freedom of speech and supersedes the Official Secrets Act when public interest requires the same (Yashwant Sinha & Ors. v. Central Bureau of Investigation Through its Director & Anr., 2019).

Aseer Jamal v. Union of India (2018): Highlighted accessibility of RTI Act for illiterate and disabled people. It directed that PIOs should help those who cannot make written applications for information. Further, it directed that information should be given in Braille format. The states should make reasonable efforts and provide alternative format for access to RTI Act (Aseer Jamal v. Union of India & Ors., 2018).

D.A.V. College Trust Case (2019): It lay down that NGOs receiving substantial financial assistance from the government are "public authorities" under RTI Act. The "substantial financial assistance" doesn't necessarily mean the majority share but depends upon the quantum of financial assistance and the role played by the same (Supreme Court of India, 2013).

Ferani Hotels v. State Information Commission (2018): Related to disclosure of the plans that were filed with the municipality. The Court considered issues of third party information and balance between commercial interests and disclosure of information. Set down guidelines on disclosure of development plans filed with the authority (Ferani Hotels Pvt. Ltd. v. State Information Commissioner Greater Mumbai & Ors., 2018).

Recommendations

Enhancement of Institutional Framework: It is advisable for the government to set up RTI cells in all public institutions with appropriate staffing and sufficient resources. The adoption of a digital record management system needs to be done at an urgent pace by all departments. It is important to increase the capacity of the Information Commission by providing additional budgets and developing technology infrastructure.

Modernization of Processes: There is a need for a complete revamp of the appeal mechanism to bring down the number of pending cases. The steps required are setting up strict timelines for appeal disposal, formulating operating procedures for RTI applications and improving proactive disclosure processes under Section 4 of the RTI Act.

Integration of Technology: There is a need to develop digital platforms for RTI application processing and tracking. There is also a need to develop mobile applications to improve accessibility, develop document management systems and monitoring systems for compliance tracking.

Capacity Building: There should be regular training programs organized for Public Information Officers and appellate authorities. There should also be public information campaigns on how to make optimal use of RTI, particularly among vulnerable sections of society. Platforms for knowledge exchange on best practices should be created. These steps need sustained effort and monitoring to ensure their successful implementation. Their successful implementation greatly improves the effectiveness of the RTI Act as an instrument for empowering the citizens and improving good governance. The balance needs to be maintained between transparency and confidentiality requirements. The key thing is to ensure that RTI continues to perform its basic role of being an instrument of accountability in public administration. The above recommendations are based on the research findings and are in consonance with the objectives of the Act.

CONCLUSION



The Right to Information Act of 2005 stands out as a defining milestone in India's democratic history, as it revolutionizes the relationship between citizens and the state through transparency. The research indicates that the Act has been highly successful in empowering citizens from all social classes to demand accountability and bring about changes within governance. Examples of the Act's achievements include better public services, increased education transparency, better implementation of social welfare policies and administration reforms. The research shows that although the legislation provides strong legislative backing to the Act, there are many challenges faced during implementation. Analysis of data on implementation reveals worrying trends such as increased backlog of cases, decreasing compliance and continued bureaucratic interference. It is shown that there are several systemic obstacles to information access, including lack of proper record-keeping systems, delayed procedures and technological problems. This is especially the case in relation to the three-tier appeal process, where delays seriously affect the goal of the Act, which is providing timely information. The role played by the judiciary in RTI implementation in India has been very influential but has also been associated with many complications. Landmark judgments have ensured that several areas of RTI implementation have been greatly strengthened. However, there is a conflict between the need for transparency and institutional obstruction, which has become more apparent in relation to issues of judicial administration. The study contributes directly to the achievement of Sustainable Development Goal 16 (SDG 16): Peace, Justice and Strong Institutions. Through the RTI Act, transparent and accountable institutions are enhanced through provision of citizens the right to access information from the government, review decisions made, monitor spending of funds, and challenge the activities of the government. RTI Act facilitates the achievement of SDG 16 through identification of corruption and abnormalities, building of accountable institutions, fostering of participatory governance and ensuring that citizens have access to information.

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